

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kara Hughes	Team: Team # 4	CCRB Case #: 200305443	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/15/2003 1:00 PM	Location of Incident: § 87(2)(b) Brooklyn	Precinct: 73	18 Mo. SOL 1/15/2005	EO SOL 1/15/2005	
Date/Time CV Reported Thu, 07/17/2003 2:13 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/17/2003 2:13 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Patrick Cherry	08307	926676	073 PCT
2. SGT Stephen Blanshaft	00608	903448	073 PCT
3. An officer			
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jason Dalessandro	28563	915541	073 PCT
2. POM Dana Lanzarone	28346	904322	073 PCT
3. POM David Mahoney	17194	906691	073 PCT
4. POF Madelyn Ciprian	8172	928076	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Patrick Cherry	Abuse: Police Officer Patrick Cherry stopped and questioned § 87(2)(b)	§ 87(2)(b)
B.POM Patrick Cherry	Abuse: Police Officer Patrick Cherry frisked § 87(2)(b)	§ 87(2)(b)
C.POM Patrick Cherry	Force: Police Officer Patrick Cherry used physical force against § 87(2)(b)	§ 87(2)(b)
D. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon race.	§ 87(2)(b)
E.SGT Stephen Blanshaft	Force: Sergeant Stephen Blanshaft used physical force against § 87(2)(b)	§ 87(2)(b)
F. Officers	Abuse: Officers strip-searched § 87(2)(b)	§ 87(2)(b)

Synopsis

On July 15, 2003, 73rd Precinct Street Narcotics Enforcement Unit (SNEU) Officers Patrick Cherry and Madelyn Ciprian arrested § 87(2)(b) inside of a building at § 87(2)(b) in Brooklyn for § 87(2)(b). The plainclothes officers approached § 87(2)(b) in the lobby of the building, requesting that he state his reason for being in the New York City Housing Authority building (*allegation a*). PO Cherry frisked § 87(2)(b) (*allegation b*) before the officers accompanied him to the § 87(2)(b) floor of the building, where § 87(2)(b) had indicated that the friend he was visiting lived. When the residents of apartment § 87(2)(b) did not open their door, and the officers intended to arrest § 87(2)(b) for § 87(2)(b), a struggle ensued during which PO Cherry admittedly struck § 87(2)(b) in the face (*allegation c*). § 87(2)(b) stated that when he was later transported to the 73rd Precinct, an officer called him a “nigger” (*allegation d*). He also alleged that at the 73rd Precinct’s stationhouse, he was frisked in a “chopping” manner causing injury (*allegation e*) and was later strip-searched (*allegation f*).

§ 87(2)(g)

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§ 87(2)(g) [REDACTED]

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) -year-old § 87(2)(b) was arrested on July 15, 2003 and charged with § 87(2)(b). On July 17, 2003, he filed both a CCRB and an IAB complaint regarding the circumstances surrounding his arrest; IAB's Group 54 conducted a preliminary call-out interview on July 17 after which it was determined to refer the case to the CCRB.

Statement provided at § 87(2)(b):

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b), complaining that his "arms and ribs hurt" – injuries he reported to have sustained after having been "assaulted" by police officers. § 87(2)(b) also complained of pain to his mouth and swelling to his hands (*see all medical documents, enc. 14a*).

Statement provided initially to CCRB (2:13 PM, July 17, 2003):

§ 87(2)(b) called the CCRB at 2:13 PM to report that officers "jumped on [him] without questioning [him]." § 87(2)(b) also alleged that the officers searched him and that a female officer "had her hands in [his] pants" while her male partner "held [him] down in a headlock." He was later "beaten" by the officers, who "banged [his] head on the floor." § 87(2)(b) also alleged that he was "beaten" while inside of a police vehicle, as officer struck him in the ribs. At the stationhouse, § 87(2)(b) stated that an officer "told him to squat" and when he failed to do so, an officer "put on gloves and stuck his finger into [his] asshole" (*enc. 9b, and enclosed audio-tape labeled 200305443*).

Statements provided to IAB (5:25 PM, July 17, 2003) and (12:55 AM, July 18, 2003):

When § 87(2)(b) called the IAB command center on July 17, 2003, he alleged acts of misconduct similar to those he enumerated when filing his CCRB complaint. Notably, § 87(2)(b) did not indicate to IAB that any strip-search occurred during which he was told to squat and a finger was inserted into his rectum.

§ 87(2)(b) was interviewed by Det. Robert Capizzuto of IAB's Group 54 on July 18, 2003; both Det. Capizzuto and this investigator's summaries of this interview can be found in this case file (*enc. 12b-c and 13a-b respectively*). The statement that § 87(2)(b) provided to IAB was, in sum and substance, similar to the statement he provided three weeks later to the CCRB. However, unlike in his CCRB interview, § 87(2)(b) made no allegations that he was strip-searched during his IAB interview.

§ 87(2)(b)'s CCRB testimony (August 1, 2004):

§ 87(2)(b) lives at § 87(2)(b), which is a part of the NYCHA Howard Houses. At approximately 2:00 PM on Tuesday July 15, 2003, § 87(2)(b) was present inside the lobby of § 87(2)(b) waiting to ride the elevator to see a friend who lives in apartment § 87(2)(b). As he waited for the elevator, two officers wearing plainclothes exited the stairwell and approached him. § 87(2)(b) later identified the male officer as PO Patrick Cherry, his arresting officer (*he later saw the officers' shield number*); while § 87(2)(b) did not know the name of PO Cherry's female partner, she has been identified as PO Madelyn Ciprian. Without stating anything to him, PO Cherry "pushed" § 87(2)(b)'s chest against the wall immediately to the left of the elevator. § 87(2)(b) turned to face the officers and asked what they were doing, to which PO Cherry replied "this is our job." As PO Cherry held § 87(2)(b) against the wall with his right hand, PO Ciprian "checked" him, by "patting § 87(2)(b) down on [his] chest and legs." PO Ciprian also searched inside of his pants pockets. The officers did not request § 87(2)(b)'s identification.

PO Cherry asked § 87(2)(b) if he lived in the building; § 87(2)(b) stated that he did not but was in the building "visiting a friend." Upon request, § 87(2)(b) stated that his friend lives in apartment § 87(2)(b).

§ 87(2)(b) PO Cherry "grabbed § 87(2)(b) by the back of the neck and threw [him] in the elevator." As they rode to the § 87(2)(b) floor, PO Ciprian "checked" § 87(2)(b).

§ 87(2)(b) by patting him down while on the elevator. Once on the seventh floor, both § 87(2)(b) and PO Cherry stood in front of the apartment door as the officer knocked on the door; PO Ciprian stood “by the exit door” in the long end of the hallway (*see photograph, enc. 11a*).

When PO Cherry’s knocking was not answered, § 87(2)(b) stated, “you gotta knock harder than that, they be in the back.” Immediately after this was said, PO Cherry turned to § 87(2)(b) and punched him in the face with his right hand – the punch landed on the left side of his jaw. § 87(2)(b) “stumbled (*but did not fall to the ground*) and got back up” and became “mad.” Turning to PO Ciprian he alleged, “[PO Cherry] just hit me! – Did you see that? – I know you’re not going to let that go down like that, he just hit me!” PO Ciprian told § 87(2)(b) “Calm down – don’t make the situation worse.” § 87(2)(b) responded by suggesting, “you just saw that – you saw it – he hit me!” After this was said, PO Cherry approached § 87(2)(b) told him to “shut up” and “tripped” him, causing him to fall to the ground. Once § 87(2)(b) was lying on the floor, PO Cherry “banged” his head on the floor three times and “strangled” him by placing a knee to his neck. § 87(2)(b) admits to “moving around” while he was on the ground, trying to “get [PO Cherry’s] knee off [his] neck.”

While § 87(2)(b) lay on the ground, PO Ciprian “checked” him by reaching her hand down the front of his pants, between his pants and his boxer shorts, “feel[ing] on his genitals...and [his] anus.” Once this “check” was completed, PO Cherry removed his knee from § 87(2)(b)’s neck and “kicked [him] a few times, in [his] ribs.” PO Ciprian handcuffed § 87(2)(b) and assisted him in standing up. § 87(2)(b)’s pockets were searched, and his identification and social security cards were removed from his pants pocket. PO Cherry escorted § 87(2)(b) to the elevator and, when riding down to the lobby, “tried to choke § 87(2)(b) by holding [his] neck.” In the lobby, the officers called for backup; the additional units took approximately five minutes to arrive. While waiting, § 87(2)(b) asserted that PO Cherry tried to trip him and PO Ciprian “checked” him for a third time by “caressing” his anus. § 87(2)(b) was crying and telling the officers that they were “wrong.”

Officers’ Cherry and Ciprian escorted § 87(2)(b) to a marked police car. Once inside the back of the marked car, he began “kicking at the windows.” There was discussion about officers using pepper spray but § 87(2)(b) stated that no spray was utilized. § 87(2)(b) was unable to provide a description of the operator of the marked car and described the recorder as a “short chubby” White male officer in plainclothes (*identified by § 87(2)(b) in a photo array session as PO Jason Dalessandro*). Before leaving the location, § 87(2)(b) stated that he was removed from the marked car and placed in a van. He rode to the 73rd Precinct’s stationhouse with two White male officers in uniform, one described as “tall” and the other “medium in height.” En route to the [73rd Precinct’s] stationhouse, both officers were “calling § 87(2)(b) all sorts of names [saying], Black nigger, you lucky you don’t live in a box, one less nigger on the street – things like that.” § 87(2)(b) responded by saying, “no-good pecker-woods” and “going back at [the officers].”

The tall officer (*identified by § 87(2)(b) in a photo array session as Sgt. Stephen Blanshaft*) escorted § 87(2)(b) into the stationhouse while “squeezing” his handcuffs as his partner (*identified by investigation as PO Dana Lanzarone*) was “hitting” his back with his fists. In front of the desk, Sgt. Blanshaft conducted a search using a “chopping” motion (executed from behind). § 87(2)(b) was “screaming [that he] wasn’t a bad kid” and explained that he had “just come from job searching.”

While continuing to “twist” § 87(2)(b)’s handcuffs, Sgt. Blanshaft and PO Lanzarone walked § 87(2)(b) to a “back room where there were three cells, a bench and a toilet.” Officers’ Cherry, Ciprian and Mahoney entered the room as § 87(2)(b) was “crying and screaming.” He recalled, “they took off my shoes, they took off my socks, they ‘un-loosened’ my belt, they took down my pants and they dropped my boxers.” § 87(2)(b) stated that he was not asked to remove these articles of clothing and that, instead, PO Dalessandro removed the clothing “for [him].” His handcuffs were removed and PO Dalessandro told § 87(2)(b) to “squat” as § 87(2)(b) refused saying, “I ain’t got nothing on me.” PO Dalessandro then told him, “spread your cheeks”; when § 87(2)(b) refused, PO Dalessandro “threatened” him saying, “squat or else.” When § 87(2)(b) “opened” his buttocks PO Dalessandro said, “more – I can’t see nothing.” When § 87(2)(b) failed to spread his buttocks wider, PO Dalessandro “came over...and spread § 87(2)(b)’s cheeks and started touching [his] anus, putting his finger in [his] butt, like flicking something out.” When § 87(2)(b) turned to look over his shoulder he

stated that all of the officers present “weren’t saying anything but just looking at [him], with a sad face.” § 87(2)(b) stated that “all five officers – including the female” were present during the strip-search.

At the conclusion of the strip-search, § 87(2)(b) was lodged in a holding cell; he continued to “cry and scream” at the officers, telling them that they were “no good.” PO Dalessandro told § 87(2)(b) that he was “going to report to [him]” prompting additional prisoners present to suggest that the officers were attempting to “switch” his arresting officer. After approximately five hours, PO Cherry (now with a shield visibly hanging from his neck – this is how § 87(2)(b) eventually identified the officer) removed § 87(2)(b) from the holding cell and walked him upstairs in the stationhouse. Two White male detectives debriefed § 87(2)(b) asking him what he knew about “shootings in the neighborhood.” He stated that he did not know anything about the shootings, asserting that he “wasn’t in the neighborhood at [the time of the alleged shootings].” PO Cherry then escorted him downstairs and continued his arrest processing. § 87(2)(b) recalled that PO Cherry’s behavior had changed since the beginning of their interaction, citing how the officer now handcuffed him “real loose, real easy” after the debriefing.

§ 87(2)(b) was then transported to Central Booking; he sought medical attention upon his release.

§ 87(2)(b) s viewing of large officer photographs (9:20 AM and 11:00 AM on December 1, 2003):

§ 87(2)(b) appeared at the CCRB on December 1, 2003 to evaluate six photographs of the officers identified as having been present during various stages of his July 15, 2003 arrest. The photographs of Officers Dana Lanzarone, Jason Dalessandro, David Mahoney, Sgt. Stephen Blanshaft and Officers Patrick Cherry and Madelyn Ciprian with § 87(2)(b) s comments can be found in this case file labeled “1” through “6” respectively (*enc. 15k-p*). After § 87(2)(b) s first viewing, he called this investigator and asked to view the photographs for a second time.

Police Officer Patrick Cherry (enc. 15o): “this is the officer who hit me on the left side of the face which caused my mouth to bleed. Also, he was banging my head on the floor and strangling me with his knee plus with additional blows of kicks.” When asked if PO Cherry ever frisked or searched him, § 87(2)(b) indicated that he did not, and instead he left that up to the lady (*PO Ciprian*).”

Police Officer Madelyn Ciprian (enc. 15p): “this is the officer who had her hands in my pants. Also forcing her fingers in between my balls and anus.” § 87(2)(b) added that PO Ciprian was present when he was strip-searched at the 73rd Precinct stationhouse.

Sergeant Stephen Blanshaft (enc. 15n): “this is the officer who caused swelling to my balls area.” § 87(2)(b) indicated that he did not recall what Sgt. Blanshaft’s partner looked like, but that the sergeant and his partner was drove him to the 73rd Precinct, called him a “nigger,” and “hit” him while escorting him into the stationhouse.

Officer Jason Dalessandro (enc. 15l): “this officer was the one who gave me the butt examination.” § 87(2)(b) recalled, “he didn’t ask me to remove my clothes, no. All I recall him saying was ‘squat.’” He stated that he observed PO Dalessandro putting on a glove while walking towards the back cell area. He also recalled that PO Dalessandro drove the marked van that transported Officers Cherry and Ciprian to the stationhouse.

Officers Dana Lanzarone (enc. 15k) and David Mahoney (enc. 15m): § 87(2)(b) had no recollection regarding the activity of either of these two officers, indicating “don’t remember” on their photographs.

Results of Investigation

§ 87(2)(g)

§ 87(2)(b) identified PO Patrick Cherry based on the fact that the officer was his arresting officer (IAB confirmed this identification). It was later determined that § 87(2)(b) also interacted with PO Madelyn Ciprian, Sgt. Stephen Blanshaft and Officers Dana Lanzarone, Jason Dalessandro and David Mahoney.

Attempts to locate civilian witnesses:

On August 21, 2003, a canvass was conducted at § 87(2)(b). The residents of apartment § 87(2)(b) indicated that they either were not present or did not witness any struggle on July 15, 2003; the residents of apartment § 87(2)(b) did not answer their door and later did not return letters sent to their residence. Attempts were made to speak with possible witness, § 87(2)(b) a neighbor of § 87(2)(b)s. On August 22, 2003, § 87(2)(b) phoned this investigator and stated that he observed § 87(2)(b) waiting for the elevator in the lobby of § 87(2)(b) on the date of incident. § 87(2)(b) also stated that he saw a female officer “check” § 87(2)(b) (such language seemed influenced by § 87(2)(b) who facilitated the communication with § 87(2)(b)).

Of those four prisoners held in the 73rd Precinct holding cells with § 87(2)(b) only one had an operational telephone number and/or address. § 87(2)(b) stated to the CCRB that he had no recollection of being housed with a prisoner at the stationhouse who was acting unruly or making allegations of misconduct.

Relevant NYPD documentation and officer identification:

§ 87(2)(b) was able to identify PO Cherry by name because the officer served as his arresting officer; IAB confirmed this identification. The remainder of the five officers with whom § 87(2)(b) had contact was identified by investigation. PO Cherry noted that force was used in effecting § 87(2)(b)s arrest (*enc. 18b*). There is no notation in the 73rd Precinct’s command log to reflect that § 87(2)(b) was strip-searched while present at the stationhouse (*enc. 30gg*).

Officer statements –

Police Officer Patrick Cherry (subject officer):

On July 15, 2003, PO Patrick Cherry was in plainclothes and partnered with PO Madelyn Ciprian; they were members of street narcotics enforcement unit (SNEU) team supervised by Sgt. Blanshaft. According to his memo book, PO Cherry first observed “suspicious persons [at] § 87(2)(b) at 2:20 PM. At 2:25 PM, “1 male stopped lobby § 87(2)(b) and by 2:30 PM “1 under § 87(2)(b) by PO Cherry for § 87(2)(b).” At 2:35 PM they were en route to the 73rd Precinct’s stationhouse in RMP § 87(2) (Comp in 2018).” PO Cherry did not end his tour until 8:00 PM (after § 87(2)(b)s arrest processing was completed).

As Officers Cherry and Ciprian were “walking through Howard Houses,” they observed § 87(2)(b) walking out of the front door of § 87(2)(b). He took notice of us (*officers*), turned around and ran back into the building.” PO Cherry stated that he could not estimate how far away he was positioned from § 87(2)(b) at this time, stating, “I don’t know – he looked at us, I looked at him, it wasn’t very close enough for me to say that he looked straight at me.” PO Cherry described this as a “common practice” of drug dealers in the Howard Houses, fleeing in an effort to “lose” officers inside of a residential building. PO Cherry stated that he and PO Ciprian approached § 87(2)(b) based upon their “mere suspicion” and “to see what he’s doing.” No one was present in the building lobby upon the officer’s entry; the officers entered the stairwell located to the right of the elevators and walked to the third floor landing where they did not observe any individuals. After checking the third floor, PO Cherry stated that he and his partner assumed that § 87(2)(b) had successfully hid inside of an apartment. The officers walked down the stairwell.

When PO Cherry stepped out of the right stairwell into the lobby, he observed § 87(2)(b) exiting the left stairwell, “looking over his right shoulder.” PO Cherry denied that § 87(2)(b) was waiting for the elevator. PO Cherry stated, “I identified myself [and] said, ‘police, can I talk to you for a minute?’” § 87(2)(b) “immediately says, ‘you can’t stop me, you can’t

talk to me, get the fuck away from me.” PO Cherry suggested, “I just wanna talk to you, hold up for a second” whereupon § 87(2)(b) “tries to walk past me, as if he was gonna walk through me.” PO Cherry “put his arms up and pushed § 87(2)(b) back [saying], ‘I just want to talk to you, where do you live?’” As PO Ciprian stood by, PO Cherry completed “a quick pat-down of § 87(2)(b) § 87(2)(b) s] waistband.” Regarding his decision to frisk § 87(2)(b) PO Cherry cited the fact that “§ 87(2)(b) is a known drug location” and explained that § 87(2)(b) s behavior was “very aggressive” and analogous with “established patterns” used by drug dealers.

Upon request, § 87(2)(b) -stated that he lives at § 87(2)(b) and was in § 87(2)(b) visiting a friend on the seventh floor; he could not recall the number of his friend’s apartment but knew that it was situated to the right of the elevator. PO Cherry requested that § 87(2)(b) accompany the officers to the seventh floor (to verify that § 87(2)(b) had a legitimate reason for visiting § 87(2)(b) § 87(2)(b) did not reply and instead just walked into the elevator; PO Cherry denied escorting or pushing § 87(2)(b) into the elevator by grabbing either the front or back of his neck.

Upon arriving at the seventh floor, § 87(2)(b) pointed to apartment ‘§ 87(2)(b) PO Ciprian stood to the left of apartment ‘§ 87(2)(b) § 87(2)(b) was standing in front of the door, and PO Cherry stood to § 87(2)(b) s right. PO Cherry knocked twice on the door; there was no answer. PO Cherry asked § 87(2)(b) if he had provided accurate information and recalled that all § 87(2)(b) said was, “this is bullshit – I was at a job interview.” After knocking a third time with no response, PO Cherry made the decision to place § 87(2)(b) under arrest for criminal trespass; he “discreetly” removed his handcuffs and said, “you’re under arrest.” As he “went to grab” § 87(2)(b) s wrist, § 87(2)(b) “lifted both arms up to about face-level” and PO Cherry could “not get his arms down.”

When PO Cherry “tried to pull § 87(2)(b) s] arm around – he stepped toward PO Ciprian’s direction with his left arm still in the air.” PO Cherry testified to his belief at the time that § 87(2)(b) was going to strike PO Ciprian. PO Cherry continued, “fearing for my safety and fearing for PO Ciprian’s safety, I struck him in the face (‘with my left hand’). It didn’t do a thing (*despite the punch having made contact with his face*). He turned around and looked at me and told me ‘[you] can’t do that.’ I hit him again – it went no where. I lost. At which point he turned around on me, I got him in a hug so he didn’t have his arms free to hit me, and he kept struggling (*the two were chest-to-chest*). I pushed him back against the wall, he pushed me back against the wall. I pushed him against the wall, he hit me against the wall at which point I was losing control. I wrapped my arms around him as hard as I could, I wrapped one leg around his leg, and I pushed off the wall with my leg and went to the ground. At which point I held him there...fearing that I’d lose him [if I let go].” PO Cherry later stated that while he and § 87(2)(b) were “going against the walls, PO Ciprian attempted to get § 87(2)(b) s] hands, which was unsuccessful at that point.”

PO Cherry feared that in reaching for his pepper spray, he would lose control of § 87(2)(b) who might injure either him or his partner. PO Cherry and § 87(2)(b) “kept rocking a little bit” in a “bear-hug” (with § 87(2)(b) lying on top of PO Cherry) while PO Ciprian attempted to handcuff § 87(2)(b) “After a couple of minutes” PO Ciprian handcuffed § 87(2)(b) he was assisted to his feet and walked to the elevator. PO Cherry denied kicking § 87(2)(b) at this time or at any point throughout their interaction. § 87(2)(b) was yelling, “fuck you! You can’t do this” which PO Cherry felt was directed at both him and his partner. § 87(2)(b) was unrestrained in the elevator until he “lunged at PO Ciprian.” In response, both PO Cherry and PO Ciprian held § 87(2)(b) with his back against the elevator wall by pressing their open-palms on his chest. PO Cherry denied using his forearm to brace § 87(2)(b)

Once in the lobby, Officers Cherry and Ciprian immediately escorted § 87(2)(b) out of the building. PO Cherry denied that any additional frisk or search of § 87(2)(b) was done, stating that he was “confident” that § 87(2)(b) was not in possession of any weapons based on the initial frisk conducted and the contact they made during their struggle on the § 87(2)(b) floor. PO Cherry stated that he did not observe PO Ciprian searching § 87(2)(b) PO Cherry never observed PO Ciprian placing her hand or finger near § 87(2)(b) s buttocks or anus, never learned from PO Ciprian that such a search was conducted, and never heard § 87(2)(b) complaining of such. Neither he nor PO Cherry requested to see any of § 87(2)(b) s identification nor did they remove § 87(2)(b) s wallet from his pants at this time.

Outside of § 87(2)(b) § 87(2)(b) was screaming, “they’re beating me!” to a crowd that had gathered in the area. PO Cherry called Sgt. Blanshaft to the location to transport § 87(2)(b) the sergeant called the prisoner van (and Officers’ Dalessandro and Mahoney) to the location. Officers’ Cherry and Ciprian placed § 87(2)(b) into Sgt. Blanshaft’s marked car; he began kicking the windows of the vehicle. PO Cherry stated that, “to [his] knowledge,” there was no discussion of using pepper spray to subdue or control § 87(2)(b) Sgt. Blanshaft and his operator, PO Lanzarone, transported § 87(2)(b) to the 73rd Precinct stationhouse while Officers’ Cherry and Ciprian rode with Officers Dalessandro and Mahoney in their marked van.

When PO Cherry arrived at the stationhouse, § 87(2)(b) and PO Lanzarone were standing at the front desk; Sgt. Blanshaft was positioned behind the desk. § 87(2)(b) was yelling, “this is bullshit! You can’t do this!” while “kicking out – trying to walk away.” To restrain § 87(2)(b) PO Cherry recalled: “I had my knee between his legs, trying to hold his leg against the desk.” PO Cherry’s initial attempts to frisk and search § 87(2)(b) were not successful, as he was not being cooperative. No additional officers attempted to frisk and/or search § 87(2)(b) at this time. PO Cherry remained at the front desk preparing § 87(2)(b)’s pedigree information while Officers Ciprian, Lanzarone, Dalessandro and Mahoney walked § 87(2)(b) to a rear cell to “cool out.” PO Cherry clarified that § 87(2)(b) was placed into a holding cell, typically used for “if you need extra-room or added privacy, or someone is emotionally disturbed or something like that.” When asked if he felt that § 87(2)(b) was emotionally disturbed, PO Cherry stated, “no, he was acting that way, but I believe he truly is not emotionally disturbed.” PO Cherry testified, “I believe they put him in the cell, finished the search, let him cool out for a few minutes, and then put him in the main cell.”

“After a few minutes,” and upon completion of the pedigree paperwork, PO Cherry entered the rear cell and observed that § 87(2)(b)’s belt and shoelaces had been removed: no additional items of clothing had been removed. PO Cherry stated that he had no knowledge of whether § 87(2)(b) was strip-searched. After either PO Lanzarone or PO Dalessandro notified PO Cherry that § 87(2)(b) was “all right,” PO Cherry escorted him to a holding pen. Detectives from the 73rd Detective Squad later debriefed § 87(2)(b) a “standard order” for arrests made in the Howard Houses. At the conclusion of the debriefing, PO Cherry went end of tour at 8:00 PM after completing § 87(2)(b)’s arrest paperwork. PO Cherry stated that while his “muscles were sore” as a result of his struggle with § 87(2)(b) he felt that this injury did not warrant charging § 87(2)(b) with assault.

Police Officer Madelyn Ciprian – (witness officer):

First CCRB interview, October 22, 2003:

PO Ciprian and PO Cherry were “walking through” the Howard Houses on July 15, 2003 when they observed a male run into § 87(2)(b) after “sticking his head out by the [front] entranceway.” To “further investigate...we took it upon ourselves to believe that the individual went to the right stairway” (*they did not observe him enter the stairwell*). Officers’ Ciprian and Cherry “ran” up to the second floor landing where they “heard some movements, like doors being slammed.” When no one was seen in the hallways, the officers returned to the lobby of § 87(2)(b) (via the right stairwell). Upon entering the lobby, they observed “the same male” who had taken flight entering the lobby via the left stairwell. PO Ciprian stated that § 87(2)(b) was not waiting for the elevator.

PO Cherry stopped § 87(2)(b) who was walking towards the exit of the building. PO Ciprian could not recall what PO Cherry said to § 87(2)(b) she did not recall PO Cherry “pushing” § 87(2)(b) and likewise did not recall § 87(2)(b) attempting to “push through” PO Cherry. § 87(2)(e)

Neither officer asked § 87(2)(b) why he ran from them and he was not asked to provide identification. PO Ciprian restrained § 87(2)(b) against the wall while he answered PO Cherry’s questions, stating that he was in the building visiting a friend. They then rode to the [seventh] (*PO Ciprian thought it was the fourth floor*) floor to verify with § 87(2)(b)’s friend that his visit was legitimate.

§ 87(2)(b) was not physically aggressive while PO Cherry knocked on the apartment door of § 87(2)(b)’s friend; PO Ciprian was standing to § 87(2)(b)’s right, PO Cherry was positioned to his left. When no one answered the door, PO Ciprian “felt [we] had enough

probable cause to arrest § 87(2)(b) for trespassing.” When either PO Ciprian or PO Cherry notified § 87(2)(b) that he was going to be arrested, he responded by “flailing (*his arms*)” and “slamm[ing]” the officers against the hallway walls. Officers Ciprian and Cherry were “struggling” with § 87(2)(b) until he fell to the ground; PO Ciprian was unable to describe the manner in which he fell but stated that she did not see PO Cherry punch § 87(2)(b). Once on the floor, PO Cherry was laying on his back and § 87(2)(b) was positioned on top of him, such that they were positioned chest-to-chest. PO Ciprian was able to handcuff § 87(2)(b) once he was lying on the ground. At no point did either she or her partner strike or kick § 87(2)(b). PO Cherry then “pushed” § 87(2)(b) off of him.

Once § 87(2)(b) was standing, PO Ciprian frisked him and found no contraband; at this time § 87(2)(b) was “fidget-y and very angry.” At no time during the frisk did PO Ciprian slide her hands between § 87(2)(b)’s pants and his boxer shorts; likewise, she did not search in § 87(2)(b)’s groin or genital region by placing her hand inside or outside of his pants.

Once in the elevator, PO Cherry “restrained” § 87(2)(b) by placing a hand on his chest with an open palm; PO Ciprian “held onto” § 87(2)(b)’s right arm. PO Ciprian remained in the lobby of § 87(2)(b) with § 87(2)(b) while PO Cherry stepped away to call Sgt. Blanshaft to the location. After a “few” minutes, Officers Ciprian and Cherry escorted § 87(2)(b) to Sgt. Blanshaft and PO Lanzarone’s marked car. § 87(2)(b) “kicked” the back windows until PO Ciprian warned him that if he broke a window, it would be added to his arrest charges. The sergeant and PO Lanzarone transported § 87(2)(b) to the 73rd Precinct’s stationhouse; Officers Dalessandro and Mahoney transported Officers Ciprian and Cherry in the prisoner van.

When she entered the stationhouse, § 87(2)(b) was standing in front of the desk with Sgt. Blanshaft and PO Lanzarone, who was holding his handcuffs. § 87(2)(b) was “very belligerent and very irate.” PO Ciprian attempted to remove his shoelaces but when he “kept fidgeting” she stopped and began to empty his pockets. She did not observe any additional frisks or searches conducted and did not see an officer “chopping” at § 87(2)(b)’s groin. Due to § 87(2)(b)’s behavior, “it was determined” (*by an unidentified officer*) that it “wouldn’t be correct to put him with the other prisoners...at that point, we took him to the back cells so that he could calm down.” Officers Ciprian, Cherry, Lanzarone, Dalessandro and Mahoney all escorted § 87(2)(b) to the “back cells.” PO Lanzarone and PO Cherry then exited the cell area; PO Cherry returned after a matter of “seconds.” PO Ciprian remained in the cell area with PO Dalessandro, who removed § 87(2)(b)’s shoelaces and belt. PO Ciprian stated that no additional items of clothing were removed, and confirmed that neither § 87(2)(b)’s pants nor his boxer shorts were removed. PO Ciprian remained in the cell with § 87(2)(b) and PO Dalessandro until, after “no more than a half hour,” § 87(2)(b) successfully “calmed down.” § 87(2)(b) remained handcuffed the entire time he was in the cell. PO Ciprian was unable to recall which officer was responsible for physically escorting § 87(2)(b) from the holding cell; she had no additional interaction with him after he was lodged in a separate holding pen. PO Ciprian went end of tour at 6:05 PM.

Second CCRB interview, September 24, 2003:

PO Ciprian stated that she did not frisk or search § 87(2)(b) in the lobby of § 87(2)(b) and did not see PO Cherry conducting either a frisk or a search at this time. PO Ciprian denied observing PO Cherry punch § 87(2)(b) (while on the seventh floor of the building) and denied hearing § 87(2)(b) assert that he had been punched. PO Ciprian stated that after § 87(2)(b) was handcuffed (while on the seventh floor of the building), she frisked him and removed his identification from his back pants’ pocket.

Sergeant Stephen Blanshaft – (subject officer):

Sgt. Blanshaft was the supervisor of the 73rd Precinct SNEU team that arrested § 87(2)(b) on July 15, 2003. He was in plainclothes and assigned to a marked car driven by PO Lanzarone. They responded to § 87(2)(b) based on a call (via point-to-point radio) placed by PO Cherry, who indicated that he had been involved with a “struggle” and arrested one individual. Sgt. Blanshaft observed § 87(2)(b) (*handcuffed*) being escorted by Officers Cherry and Ciprian; he was “obviously irate” and shouting. Upon seeing this, Sgt. Blanshaft called the prisoner van to respond and transport § 87(2)(b). In waiting for the prisoner van to arrive, because § 87(2)(b)

was “yelling and screaming” and since the sergeant did not want a crowd to gather, § 87(2)(b) was placed into the sergeant’s vehicle. Sgt. Blanshaft was not aware that any frisk or search was conducted prior to the “pat-down” PO Cherry conducted before placing § 87(2)(b) into the car. § 87(2)(b) “calmed down once in the car”; Sgt. Blanshaft did not recall his kicking at the car’s windows.

Before leaving the location, Sgt. Blanshaft spoke with PO Cherry regarding the nature of § 87(2)(b)’s arrest and learned that he had resisted when the officers attempted to handcuff him. Sgt. Blanshaft stated, “[PO Cherry] attempted to cuff § 87(2)(b) first. He resisted. A struggle ensued and, then, that’s probably when he punched him.” Sgt. Blanshaft stated that PO Cherry told him that he had punched § 87(2)(b) “at least once.”

En route to the stationhouse, § 87(2)(b) was “still yelling a little bit [stating], ‘this is bullshit’ [and] ‘I just came from a job interview.’” Neither the sergeant nor PO Lanzarone spoke to § 87(2)(b) during the drive to the stationhouse. Sgt. Blanshaft denied that either he or PO Lanzarone called § 87(2)(b) a “nigger” and stated that he did not recall § 87(2)(b) calling either officer a “peckerwood.” Either Sgt. Blanshaft or PO Lanzarone escorted § 87(2)(b) into the stationhouse by holding “either his arm or [his] cuffs.” Sgt. Blanshaft did not “jerk-up” § 87(2)(b)’s handcuffs nor did he observe PO Lanzarone jerking on the cuffs. § 87(2)(b) was presented before the front desk; at this time the remainder of the SNEU team was present. Either PO Cherry or PO Lanzarone completed a search of § 87(2)(b)’s “out-garments”; no “chopping” search was conducted on § 87(2)(b)’s groin.

Sgt. Blanshaft (personally) determined that “because of § 87(2)(b)’s attitude – he was carrying on and yelling,” and because there were already prisoners in the holding cell, he directed that § 87(2)(b) be placed “in the cellblock, where he was by himself.” Sgt. Blanshaft continued, “I figured, keep him by himself, let him vent back there by himself. He couldn’t do any danger to anybody or to himself.” Either PO Lanzarone or PO Cherry escorted § 87(2)(b). While Sgt. Blanshaft remained at the front desk to prepare a pedigree card at this time, based on observation he noted that “at one point” his entire SNEU team was in the cellblock area with § 87(2)(b). Sgt. Blanshaft denied ordering a more intrusive search and stated that “as far as [he] knew just § 87(2)(b)’s belt and shoelaces” were removed. Though he had no independent knowledge of such a search, the sergeant added that had § 87(2)(b) been strip-searched, the officers who conducted the search would have been required to notify Sgt. Blanshaft and he was never notified as such. After approximately five minutes, Sgt. Blanshaft observed § 87(2)(b) being escorted from the “cell block” area to the holding cells; he had “pretty much” calmed down at this time.

Police Officer Dana Lanzarone – (witness officer):

PO Lanzarone recalled that he and Sgt. Blanshaft arrived at § 87(2)(b) in response to a “hurried” call placed by PO Cherry for backup, prompting him to think that “something [was] wrong.” At the location, Officers’ Cherry and Ciprian were escorting § 87(2)(b) out of the building; § 87(2)(b) was “dropping his feet,” moving his torso from “side-to-side” and shouting “fuck the police!” PO Lanzarone and Sgt. Blanshaft exited their vehicle and the sergeant called the prisoner van to the location. As § 87(2)(b) was acting “irate,” the decision was made to place § 87(2)(b) into the marked car (in lieu of waiting for the van). Without frisking or searching him, PO Lanzarone placed § 87(2)(b) into the back of the car. PO Lanzarone (*the operator*) remained in the vehicle with § 87(2)(b) as the sergeant spoke with Officers Ciprian and Cherry. § 87(2)(b) was “kicking and yelling expletives.” After approximately five to ten minutes (and once the prisoner van arrived at the location), PO Lanzarone drove Sgt. Blanshaft and § 87(2)(b) to the stationhouse.

§ 87(2)(b) remained vocal during the “five-to-ten minute” drive, yelling comments such as “fuck you!” and “Cracker!” When asked if he recalled § 87(2)(b) using the term “peckerwood,” PO Lanzarone stated, “that’s funny. No. He might have, actually, I don’t really know.” PO Lanzarone also recalled that, at some point during their interaction, § 87(2)(b) had asserted “I’m not a bad guy” and explained that he was either coming from or going to a job interview at the time of his arrest. PO Lanzarone denied calling § 87(2)(b) a “nigger” and likewise denied that Sgt. Blanshaft or any officer used this term when addressing § 87(2)(b).

PO Lanzarone escorted § 87(2)(b) into the stationhouse by holding the chain between his handcuffs (they followed Sgt. Blanshaft, who did not physically participate in the escort). § 87(2)(b)

§ 87(2)(b) “stutter-stepped” during this time, moving back and forth. PO Lanzarone did not recall issuing § 87(2)(b) any command requesting that he walk straight; he stated that he “pulled up” on the handcuff’s chain “between three or four times.”

PO Lanzarone stood with § 87(2)(b) at the front desk and frisked him (Sgt. Blanshaft was behind the desk at this time). Following this, and for “some reason, [PO] Ciprian picked-up the frisk.” PO Lanzarone stated that he did not conduct a “chop-frisk” of § 87(2)(b)’s groin area and did not see a separate officer frisking as such but stated that each officer’s frisking style is unique. PO Cherry did not have any physical interaction with § 87(2)(b) at this time “because § 87(2)(b) was irate and PO Cherry [had been] just fighting with him.” *PO Lanzarone stated that he “later learned” that PO Cherry had used force in effecting § 87(2)(b)’s arrest.* As § 87(2)(b)’s pedigree information was being prepared, he was “not complying” with the officers’ instructions. He recalled § 87(2)(b)’s behavior “caus[ed] alarm [prompting people to ask], ‘what’s wrong with this guy?’” Based on such behavior, it was determined (by an unidentified officer) to walk § 87(2)(b) into a back holding cell area that is private. Officers’ Lanzarone, Cherry Ciprian and Dalessandro walked § 87(2)(b) to the back cell area; PO Lanzarone was responsible for personally escorting him and did so by holding the chain between the handcuffs, “possibly” pulling on the chain during the escort.

Once they were in the back holding cell area, PO Lanzarone recalled, “I was holding him and the other officers were Ciprian, Dalessandro, I think Cherry was in there for a minute or two, Mahoney. They were checking his pockets, taking his shoelaces out, taking his belt out and then basically I left the back area and went to the front and waited for the sergeant. [PO] Cherry, he also went to the front.” PO Lanzarone recalled that PO Dalessandro was attempting to subdue § 87(2)(b) who was “calming down” as PO Lanzarone left the area. PO Lanzarone stated that § 87(2)(b) was not directing+ any verbal aggression at him, and instead he was “very unhappy with PO Cherry and PO Ciprian.” PO Lanzarone stated that in his presence no items of § 87(2)(b)’s clothing (except for his shoelaces and belt) were removed. PO Lanzarone was unable to estimate how long § 87(2)(b) was in the back holding cell area as he did not personally observe when he was escorted out of the room.

Police Officer Jason Dalessandro – (witness officer):

On July 15, 2003, PO Dalessandro was assigned to his SNEU team’s prisoner van with PO David Mahoney: he “thought” that he was in uniform based on his assignment and had no memo book entries pertaining to this incident. PO Dalessandro responded to § 87(2)(b) based on a call placed by Sgt. Blanshaft; § 87(2)(b) was in the back of a marked car and the officers present were all standing near the car. Per the sergeant’s request the van transported Officers Cherry and Ciprian to the 73rd Precinct’s stationhouse while § 87(2)(b) was transported in the RMP. En route, Officers Cherry and Ciprian, “said they just fought with this guy, in one of the projects.”

PO Dalessandro observed PO Lanzarone escorting § 87(2)(b) to the front desk; he did not recall PO Lanzarone “jerking” on § 87(2)(b)’s handcuffs. PO Dalessandro began “walking around” the stationhouse, while PO Cherry approached the front desk where PO Lanzarone was standing with § 87(2)(b). He recalled that after having stood “calmly” in front of the desk for “a minute or two § 87(2)(b) began] flipping-out: yelling, screaming, kicking his feet...very hostile.” PO Dalessandro surmised that § 87(2)(b) became upset upon “oh – probably viewing the guy he just fought with, which is PO Cherry.” He continued, “I think PO Cherry, they’re trying to calm him down...trying to figure out what’s going on...I think they’re trying to do the frisk – he’s moving all around...somebody don’t want to be searched, they’re not going to be searched.” While PO Dalessandro did not observe a “chopping” search conducted on § 87(2)(b)’s groin area, he did state that a typical frisk does cover the crotch area and speculated that an individual might find this uncomfortable.

PO Dalessandro stated that § 87(2)(b) was “walked to the back cells (by PO Lanzarone) because they weren’t able to get his name and information [and] to calm him down. That’s when I walk into the back cells and PO Cherry and PO Lanzarone leave...[§ 87(2)(b)] is more mad at PO Cherry, because he got in a fight with him...the best thing was for PO Cherry to step out [of the back holding cell area] and for me to calm this guy down.” PO Cherry was in the back holding cell area for “no more than a minute” before leaving “[PO Dalessandro], Dave [Mahoney] and Cip [PO Ciprian] with the prisoner.” PO Dalessandro stated that he took it upon himself to intervene and help calm § 87(2)(b).

§ 87(2)(b)

PO Dalessandro recalled: “I talked to him, calm him down...while calming him down, my job is that I’ve got to remove [his] shoelaces, I don’t know if he had a belt, but I’d remove that.” No additional items of clothing were removed from § 87(2)(b) s person. Likewise, § 87(2)(b) was not made to squat. PO Dalessandro testified that § 87(2)(b) remained handcuffed and “standing up” throughout the duration of his time spent in the “back holding cell” area. PO Dalessandro recalled that § 87(2)(b) was “emotional” and remarking that he was “coming from a job interview [prior to being arrested] or something like that.” PO Dalessandro could not recall § 87(2)(b) alleging that PO Cherry had punched him while effecting the arrest. PO Dalessandro estimated that § 87(2)(b) was in the back holding cell area for between “two-to-three minutes.” PO Dalessandro “handed-off” a “calm” § 87(2)(b) to PO Cherry near the front desk; PO Dalessandro had no further interaction with § 87(2)(b).

Police Officer David Mahoney – (witness officer):

The first time PO David Mahoney interacted with § 87(2)(b) on July 15, 2003 was at the 73rd Precinct’s stationhouse. En route to the stationhouse he learned from Officers Cherry and Ciprian that § 87(2)(b) had fought both of them when his arrest was effected. When PO Mahoney entered the stationhouse, he observed Sgt. Blanshaft standing behind the (front) desk and PO Lanzarone standing in front of the desk with § 87(2)(b) who was “ranting and raving, screaming, not cooperating...physically, he’s, acting up.” PO Mahoney “safe-guarded everyone’s guns because they said they were going to bring § 87(2)(b) into the back cells to calm him down. I’m not too sure who (which officers) brought him back there.” § 87(2)(b) was escorted to the back holding cell area after being in front of the desk for “maybe a minute.” PO Mahoney surmised that § 87(2)(b) was brought to the back room to “calm down.” PO Mahoney stated that he and Sgt. Blanshaft remained in the vicinity of the front desk while the remainder of the SNEU team escorted § 87(2)(b) in the back area.

PO Mahoney continued, “and then I safe-guarded the guns and he was in the back and I just went in the cells and hung-out near the door.” At the time when he walked to the back holding cell area, § 87(2)(b) was in the room with Officers Ciprian and Dalessandro – three officers in total, counting PO Mahoney himself. § 87(2)(b) was “standing up...still handcuffed...I think [PO] Dalessandro is talking to him, trying to calm him down.” PO Mahoney could not recall what § 87(2)(b) was wearing on the date of incident but stated that he was fully clothed in the back holding cell area. PO Mahoney did not observe PO Dalessandro removing any articles of § 87(2)(b) s clothing aside from his shoelaces (and a belt, if he was wearing one on the date of incident). PO Mahoney was never made aware – after the fact – that § 87(2)(b) had been strip-searched in the back holding cell area.

PO Mahoney estimated that he was in the back holding cell area for between three-to-five minutes; when he left, § 87(2)(b) remained in the cell area. § 87(2)(b) was escorted out of the cell area after “maybe another five minutes,” having been in the back holding cell area for between six to ten minutes. This was the last notable observation PO Mahoney made of § 87(2)(b).

Medical records pertaining to § 87(2)(b) s treatment at § 87(2)(b) on § 87(2)(b)

§ 87(2)(b) sought medical attention on § 87(2)(b) complaining that he was “assaulted by the police.” § 87(2)(b) was found to sustained “injuries to [his] rib cage” and his mouth was diagnosed as “swelling.” He also complained of numbness to both of his arms. While X-rays of his ribs and chest showed no fractures, he was diagnosed with having sustained “multiple contusions” and was prescribed Motrin (an over-the-counter pain reliever) (*enc. 29c-u*).

Medical records pertaining to § 87(2)(b) s treatment at the § 87(2)(b)

on § 87(2)(b) :

On § 87(2)(b), § 87(2)(b) sought medical attention at the § 87(2)(b). Records indicate that he “complain[ed] of being punched and beaten by police officers” (*enc. 29ee*). He stated that he was “hit on [his] chin” and also noted discomfort in his “ribs, hands, wrist, hip, mouth [and] genitals.” There was noted tenderness in his testicles. Additionally, § 87(2)(b) s lower left jaw was diagnosed as “swollen,” and tenderness and lacerations were noted

inside of his mouth. He was prescribed ‘xylocaine,’ an anesthetic often used to treat open oral contusions (*enc. 29ee-i*).

Records indicate that § 87(2)(b) was seen at the § 87(2)(b) on § 87(2)(b), where he diagnosed as having suffered a concussion (*enc. 29hh*). Records from § 87(2)(b) reflect that on § 87(2)(b), § 87(2)(b) was referred to obtain a psychiatric appointment. The referral was made after § 87(2)(b) told a physician that he “be bad[ly] accosted by the NYPD and was falsely arrested.” He also spoke of a “lawsuit” that he filed against the police department. § 87(2)(b) stated that “since [his] arrest, [he] has sleeping and emotional problems” (*enc. 29kk-ll*).

Disposition of § 87(2)(b) s criminal charges:

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Disposition of § 87(2)(b) s civil lawsuit filed against the City of New York:

As of November 2003, § 87(2)(b) obtained legal counsel in § 87(2)(b). § 87(2)(b) filed her Notice Of Claim on § 87(2)(b) asserting that § 87(2)(b) was falsely arrested, improperly strip-searched, and the victim of excessive force, malicious prosecution, malicious abuse of process and intentional infliction of emotional distress. § 87(2)(b) is claiming compensatory and exemplary damages totaling four million dollars (*enc. 31a-b*).

Civilian and Police Officer Histories:

This complaint is the first that § 87(2)(b) has filed with the CCRB. PO Cherry, who has three years of experience as an NYPD officer, was the subject of two closed CCRB investigations, where FADO allegations (including a frisk and search allegation) have been “unsubstantiated” against him. PO Cherry is the subject officer of one pending CCRB complaint (200400928) where the allegations being pled against him are similar to § 87(2)(b) s allegations, as they include stop/question, frisk/search and excessive physical force allegations. Sgt. Blanshaft, a ten-year NYPD veteran, was the subject of one “unfounded” CCRB allegation in 1997.

Conclusions and Recommendations

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(b)
§ 87(2)(b) now § 87(2)(b) years old, has remained in continual contact with the CCRB over the process of this twelve-month investigation. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

On two separate occasions since the date of incident, § 87(2)(b) has called this investigator to report having seen PO Cherry; in a third report he alleged that officers had been asking about him around the neighborhood. On August 19, 2003, he called to report having seen PO Cherry on August 16th (they did not have any contact, as the officer was driving a prisoner van) and on October 8, 2003 he called to report having seen PO Cherry the previous day. § 87(2)(b) stated that on October 7, 2003 he was stopped with a number of other males outside of § 87(2)(b); upon the request of four plainclothes officers, he provided identification. When he returned to the ID to § 87(2)(b) PO Cherry reportedly commented loudly, “make sure you keep using the phone.” On December 22, 2003, § 87(2)(b) stated that two of his friends were stopped by officers on December 20, and later told him that the officers asked if they knew him § 87(2)(b) § 87(2)(b) expressed concern because many of his peers in the Howard Houses have been asking him if he is a snitch, and questioning why he and officers appear to be familiar. § 87(2)(b) filed an IAB complaint alleging harassment against PO Cherry; the complaint was referred to, and remains open at, the Office of the Chief of Department.

73rd Precinct officers interviewed regarding this incident:

All six officers who interacted with § 87(2)(b) were interviewed within five months of his July 15, 2003 arrest; PO Ciprian was interviewed twice. § 87(2)(g)

§ 87(2)(g)

Allegation a: Police Officer Patrick Cherry stopped and questioned § 87(2)(b)

By all accounts, § 87(2)(b) was in the lobby of § 87(2)(b) when he first interacted with Officers Cherry and Ciprian. § 87(2)(b) asserted that he was waiting for the elevator at the time when the officers emerged from the stairwell located to the right of the elevator. Officers Cherry and Ciprian stated that the first time they saw § 87(2)(b) he was exiting § 87(2)(b) as they were walking through the courtyard of the Howard Houses. The officers asserted that, upon seeing them, § 87(2)(b) re-entered, and ran further into, the building. While it reasons as either coincidental or improbable, both officers stated that after they pursued and were unable to locate the male they believed to be § 87(2)(b) inside of § 87(2)(b) he was in the lobby as they exited the building. PO Cherry stated that it was at this time that he first addressed § 87(2)(b) asking him to identify himself.

Both officers confidently stated that the male they pursued into § 87(2)(b) was § 87(2)(b) § 87(2)(g)

PO Cherry said that he and PO Ciprian walked briskly up to the third floor of § 87(2)(b) when, upon hearing no noises indicative of an individual in flight (i.e. no doors slamming were heard), they concluded that whomever they were following had successfully eluded them. PO Ciprian described the pursuit as a “run,” which culminated on the second floor of § 87(2)(b) where they heard “doors slamming.” Furthermore, while PO Cherry described that § 87(2)(b) attempted to “push through [him]” after the officer identified himself, PO Ciprian stated that she observed no such “push through.” § 87(2)(g)

However, the fact remains that because § 87(2)(b) is a part of the Howard Houses, a New York City Housing Authority (NYCHA) dwelling, it is a ‘no trespass facility.’ Signs are posted in the lobby and on each building’s roof that read, “Loitering and Trespassing are not permitted...Violators subject to arrest.” New York Penal Law 140.10(e) (*enc.2c*) entitles officers to arrest individuals who are inside such NYCHA facilities who have “no legitimate purpose in being there” (*qtd. in Kamins, enc. 3c*).

§ 87(2)(g)

Allegation b: Police Officer Patrick Cherry frisked § 87(2)(b) in the lobby of § 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

Regarding the frisk, PO Cherry detailed, “because weapons readily accessible in his waistband...I didn’t even get all the way around him, just front-to-sides, to his hips.” When asked to explain the impetus for the frisk, PO Cherry did not state that he observed any form or bulge or suspicious object in § 87(2)(b)’s waistband. Instead, PO Cherry explained that § 87(2)(b) is a “known drug location” and described that § 87(2)(b)’s decision to re-enter the building raised his level of suspicion, as this is an “established pattern” of action used by those who sell narcotics in the area. PO Cherry stated that these factors, coupled with § 87(2)(b) acting “very aggressive and very violent” after he was stopped, prompted him to frisk § 87(2)(b).

§ 87(2)(b)

§ 87(2)(b) asserted that he was frisked and searched multiple times throughout his interaction with officers. While PO Ciprian did not recall that any frisk or search was conducted in the lobby of § 87(2)(b) based on PO Cherry’s admission it is known that § 87(2)(b) was frisked by the officer almost immediately after being stopped in the lobby. § 87(2)(g)

As is discussed in Barry Kamins’ *New York State Search and Seizure*, “New York courts require that, in addition to a reasonable suspicion which justifies the stop of the individual [*here: NYCHA trespass regulations*], the officer must entertain an independent and reasonable suspicion that the suspect is armed and dangerous” (*enc. 3g*). Kamins cites *People v. Russ* (61 NY2d 693, 472 NYS2d 601 (1984)), where “the Court found that while the officer had the right to stop the defendant to make investigative inquiries, he could not frisk her because he lacked an independent belief that [s]he was armed” (*enc. 3f-g*). The two exceptions recognized by courts regard individuals suspected of having committed a violent crime and individuals with obvious and visible bulges on their person (suggesting that a weapon is being secreted).

§ 87(2)(g)

§ 87(2)(g)

In *PD v. Hoffman* (OATH Index Nos. 1005-06/98 (Apr. 13, 1998), *enc. 4a-g*), Administrative Law Judge (ALJ) John Spooner found officers guilty of having conducted an illegal frisk subsequent to a lawful request for information. Judge Spooner ruled as follows:

“...the officers’ initial inquiry as to [complainant’s] reasons for being at the bus stop was proper...however, their subsequent actions of stopping and frisking [complainant] raise serious constitutional problems, as discussed in *PD v. Wang*. Here, respondents based their

alleged reasonable suspicion of criminal activity upon Mr. Kee's walking back and forth at a location where there had been past drug arrests, his efforts to walk away from their patrol car surveillance, and his failure to immediately remove his hands from his pockets when asked. The relevant case law from the First Department makes it clear that the officers lacked a legally sufficient basis for stopping and frisking Mr. Kee."

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation c: Police Officer Patrick Cherry used excessive physical force against § 87(2)(b)

[REDACTED]
§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)
[REDACTED]
[REDACTED]
The § 87(2)(b) triage assessment reflects § 87(2)(b)'s first recorded complaint narrative which reads, "patient states he was assaulted by police. Injuries to rib cage and mouth swelling to hands numbness to both arms" (*enc. 29f*). At § 87(2)(b), § 87(2)(b) complained that NYPD officers "beat" him, "land[ing] a hit on [his] chin" (*enc. 29bb*). On § 87(2)(b) at § 87(2)(b) he was diagnosed with "lower left jaw swelling" and a laceration in his mouth. There he was prescribed 'xylocaine,' an anesthetic, which is often used to treat open sores or contusions (*enc. 29ee*). X-rays ultimately determined that § 87(2)(b)'s jaw was not fractured. § 87(2)(g)
[REDACTED]
[REDACTED]

PO Cherry admitted to punching § 87(2)(b) § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED] Penal Law (35.30, *enc. 2a-b*) delineates the use of force in making an arrest and states as follows:

"A police officer...in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he reasonably believes to have committed an offense, may use physical force when and to the extent he reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force."

PO Cherry stated that after no one answered the door at apartment "§ 87(2)(b) he "discreetly" removed his handcuffs and "went to grab" § 87(2)(b)'s wrist, prompting § 87(2)(b) to "lift both arms up to about face-level...as if he was doing a chin-up." § 87(2)(b) then "stepped toward PO Ciprian's direction with his left arm in the air" as PO Cherry held his right arm; PO Cherry recalled thinking that § 87(2)(b) was going to strike his partner. PO Cherry recalled, "fearing for my safety and fearing for PO Ciprian's safety, I struck him in the face ("with my left hand"). It didn't do a thing (*despite the punch having made contact with his face*). He turned around and looked at me and told me '[you] can't do that.' I hit him again – it went no where. I lost."

§ 87(2)(g) PO Ciprian denied observing PO Cherry punch § 87(2)(b) during her (two) CCRB interviews. She stated that § 87(2)(b) was "acting irate" upon learning that he was going to be arrested, and that ultimately he was "swinging at PO Cherry" before PO Cherry took him to the ground. Despite recalling this, PO Ciprian

was unable to describe the manner in which her partner and § 87(2)(b) fell to the ground. After PO Cherry was interviewed and stated that he struck § 87(2)(b) because § 87(2)(b) was “stepping toward” PO Ciprian, PO Ciprian was re-interviewed at the CCRB. On October 22, 2004, PO Ciprian was asked whether § 87(2)(b) made a move that was physically aggressive towards her. PO Ciprian stated that the only time § 87(2)(b) made an aggressive physical advance towards her was when they were riding, in the elevator, from the seventh floor to the lobby of § 87(2)(b) which was after he was handcuffed.

§ 87(2)(g)

§ 87(2)(g)

PO Cherry stated that § 87(2)(b) was standing directly in front of the apartment door, and that he was standing to § 87(2)(b)'s right while PO Ciprian was standing to § 87(2)(b)'s left. Both § 87(2)(b) and PO Ciprian described the arrangement conversely, where PO Cherry was standing to § 87(2)(b)'s left (essentially at the end/corner of the hallway) and PO Ciprian was standing to his right (the long-side of the hallway, near the elevator). § 87(2)(g)

According to PO Cherry's statement, when § 87(2)(b) is to have lunged at PO Ciprian, he was acting to back her up against a corner § 87(2)(g)

PO Ciprian was not standing in a corner. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation d: An Officer used offensive language when speaking to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) The officer accounts all indicate that PO Lanzarone drove Sgt. Blanshaft and § 87(2)(b) to the stationhouse in a marked vehicle while Officers Dalessandro and Mahoney's prisoner van transported Officers Cherry and Ciprian. § 87(2)(b) stated that he was removed from a marked vehicle and transported to the stationhouse in a van by two officers in uniform § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) It was during this transport that he asserted that an officer called him a "nigger." § 87(2)(b) recalled responding to the officer's comment, "you lucky you don't live in a box, one less nigger on the street," by calling the officer a "peckerwood." While Sgt. Blanshaft denied hearing § 87(2)(b) speak as such, PO Lanzarone allowed for the possibility that § 87(2)(b) called either him or the sergeant a "peckerwood" however cited that because § 87(2)(b) was being so loud, it was difficult to discern the content of what was being said. Both officers denied calling § 87(2)(b) a "nigger." Likewise, all of the officers interviewed denied using this term, or hearing another officer addressing § 87(2)(b) by calling him a "nigger."

§ 87(2)(b) remained insistent that officers spoke to him using this offensive language at some point during his arrest – while he initially asserted that it was the officers who transported him to the stationhouse who spoke as such, he later stated that he was called a "nigger" while at the 73rd Precinct's stationhouse. § 87(2)(g)

Allegation e: Sergeant Stephan Blanshaft used excessive force against § 87(2)(b)

In his photo array session, § 87(2)(b) identified Sgt. Blanshaft, as "the officer who caused swelling to my balls area [by] hitting me in places that cause few swelling to my body." During his interview, § 87(2)(b) described that [the officer identified as] Sgt. Blanshaft frisked his groin-area with a "chopping motion" (executed from behind). § 87(2)(b) stated that he was "screaming [that he] wasn't a bad kid" while Sgt. Blanshaft shouted, "spread your legs!" and continued to "chop" § 87(2)(b)'s testicles. While at the § 87(2)(b) on § 87(2)(b), § 87(2)(b) complained of having sustained injury to his genitals and was found to have "localized tenderness in [his] right testicle" (*enc. 29gg*).

Sgt. Blanshaft denied having frisked or searched § 87(2)(b). He stated that either PO Cherry or PO Lanzarone searched § 87(2)(b) at the 73rd Precinct stationhouse's front desk. PO Lanzarone stated that he (personally) frisked § 87(2)(b) but that PO Ciprian "picked-up the frisk." PO Lanzarone denied that either of these frisks utilized a "chopping motion." PO Lanzarone also stated that PO Cherry had no physical interaction with § 87(2)(b) at this time. PO Cherry described a somewhat extensive physical interaction, stating that because § 87(2)(b) was "kicking out [and] trying to walk away (from the front desk)...[he] had [his] knee between § 87(2)(b)'s legs, trying to hold his leg against the desk." PO Cherry stated that his attempts to

frisk and search § 87(2)(b) were unsuccessful and that no additional officers attempted to frisk or search § 87(2)(b) at this time.

§ 87(2)(g)

Multiple officers (including PO Lanzarone, PO Ciprian and PO Cherry) accepted partial and/or full responsibility for having frisked and searched § 87(2)(b) at the 73rd Precinct front desk. Other officers (including Sgt. Blanshaft, PO Dalessandro and PO Mahoney) deny having any physical contact with § 87(2)(b) at this time.

§ 87(2)(g)

Allegation f: Officers strip-searched § 87(2)(b)

§ 87(2)(g)

During his photo array session, § 87(2)(b) identified PO Dalessandro as the officer who “gave [him] the butt examination” (*enc. 15I*) however during his CCRB interview § 87(2)(b) stated that five officers, including PO Ciprian, were present during the alleged strip-search. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

PO Ciprian admitted to having removed § 87(2)(b)'s identification from his back pocket while § 87(2)(b) lay on the ground inside of § 87(2)(b) having struggled with PO Cherry before being handcuffed. § 87(2)(g)

[REDACTED] It was during this time that § 87(2)(b) alleged that PO Ciprian "caressed [his] anus," having placed her hand down his pants, essentially groping his genitals through his boxer-shorts. PO Ciprian denied frisking or searching § 87(2)(b) in such a manner and instead stated that she simply removed his wallet from his back pocket.

§ 87(2)(b) described that when [the officer identified as] PO Lanzarone escorted him into the 73rd Precinct's stationhouse, PO Lanzarone was "jerking" up on his handcuffs, causing him discomfort. PO Lanzarone admitted to lifting up on the chain between § 87(2)(b)'s handcuffs, stating that because § 87(2)(b) was walking erratically it was necessary to use such pressure to guide him. Based on his own admission, § 87(2)(b) was emotional and exhausted once he arrived at the 73rd Precinct's stationhouse, having recently struggled with PO Cherry, kicked at the windows of police car and yelled and possibly cried en route to the stationhouse. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: